

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/776,631	CURRIE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Zachary C. Tucker	1624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 23 August 2006.
2. ☒ The allowed claim(s) is/are 1-37, 44-46 and 60.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date <u>23Aug06</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
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***Response to Amendment***

As requested by applicants in the reply filed 23 August 2006 (hereinafter “present amendment”), which is in reply to the Office action mailed 24 May 2006 (hereinafter “previous Office action”), claims 1-37, 44-46 and 60 have each been amended. All of claims 38-43 and 47-59 have been cancelled. Also as requested, the title of the application has been amended.

***Election/Restrictions***

The present amendment has overcome the rejections set forth in the previous Office action. As a result, the conditions required for rejoinder of withdrawn claims drawn to nonelected subject matter have been met. Applicant has voluntarily cancelled claims 38-43 and 47-56, which were drawn to nonelected subject matter.

Claims 36, 37 and 44-46 are the only currently pending claims which were withdrawn due to the Requirement for Restriction. The Requirement for Restriction mailed 27 January 2006 is hereby WITHDRAWN.

***Status of Claim Rejections - 35 USC § 112***

In the previous Office action, claims 1-35 and 60 were rejected under 35 U.S.C. 112, second paragraph for indefiniteness of the claims’ language. The phrase “or form thereof,” specifically, was objected to.

By virtue of the present amendment, the phrase “or [pharmaceutically acceptable] form thereof” has been replaced in all occurrences with “pharmaceutically acceptable salt thereof,” which obviates the rejection.

***Specification***

Objection to the title of the application, on the ground that it is (was) not completely descriptive of the invention disclosed and claimed, was set forth in the Requirement for Restriction letter mailed 27 January 2006. The objection was held in abeyance in the previous Office action, at applicants' request.

In view of the present amendment to the title of the application, the objection thereto is hereby withdrawn.

***Information Disclosure Statement***

Certain cited items on the PTO forms 1449 which accompanied the Information Disclosure Statements filed by applicants on 10 May 2004, 5 November 2004 and 10 February 2006 were lined through and not considered by the examiner, because said items did not include publication date information. It was also noted that the several "Written Opinion" documents, for PCT publications, were not understood as to how they related to the instantly claimed subject matter. At the urging of applicants' counsel, the examiner has initialed and signed the newly-submitted 1449 form filed with the present amendment. The documents which were previously "lined through" and not considered have now been considered, but the examiner still does not understand the significance of the Written Opinion and Search Report documents cited. The Written Opinions and Search Reports (prepared in the examination International Applications under the Patent Cooperation Treaty) have been read by the examiner, but the claims upon which said opinions and Search Reports were rendered were not submitted, nor were any of the documents cited in those Written Opinions and search reports. In the absence of these

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pieces of information, the Written Opinions and Search Reports are of practically no value in determining the patentability of the present invention.

***Allowable Subject Matter***

Claims 1-37, 44-46 and 60 are allowed.

The examiner's reasons for indicating allowable subject matter were provided in the previous Office action, at page 6.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

All Post-Allowance Correspondence concerning this application must be mailed to:

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or you can fax them to the Office of Patent Publications at 703-872-9306, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027. The Notice of Allowance also has an insert containing contact information on other items, including Issue Fees, receipt of formal drawings and the status of the application.

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A handwritten signature in black ink, appearing to be 'A. Ch' followed by a long horizontal stroke.